

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

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|----------------------------|---|--------------|
| CARLOS TERRILL MAXWELL, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | CIV-13-109-D |
| |) | |
| STATE OF OKLAHOMA, et al., |) | |
| |) | |
| Defendants. |) | |

REPORT AND RECOMMENDATION

Plaintiff, a pretrial detainee appearing *pro se*, filed this civil rights action pursuant to 42 U.S.C. §1983 on January 30, 2013. The matter was referred to the undersigned Magistrate Judge by United States District Judge DeGiusti on January 31, 2013, for initial proceedings consistent with 28 U.S.C. §636(b)(1)(B). On January 31, 2013, the undersigned reviewed the pleadings filed by Plaintiff and entered an Order notifying Plaintiff that the documents filed on January 30, 2013, were deficient because Plaintiff had not paid the filing fee or submitted a motion to proceed *in forma pauperis* and the complaint was not on the proper §1983 form. The Plaintiff was ordered to cure these deficiencies by February 20, 2013, and advised that if the deficiencies were not cured, the undersigned would recommend the dismissal of the action without prejudice. As of this date, Plaintiff has failed to comply or file any further pleadings with the Court.

Plaintiff's lack of interest in complying with the Court's Order combined with the

Court's attempt to manage and control its caseload warrant a dismissal of the Complaint without prejudice. See Gripe v. City of Enid, Okla., 312 F.3d 1184, 1188 (10th Cir. 2002) (Federal Rules of Civil Procedure authorize sanctions, including dismissal, for failure to comply with court's orders). See also Nasious v. Two Unknown B.I.C.E Agents at Arapahoe County Justice Center, 492 F.3d 1158, 1161 n. 2, 1162 (10th Cir. 2007)(*sua sponte* dismissal for failure to comply with court's orders permitted under federal rules, and court need not follow any particular procedures in dismissing action without prejudice for failure to comply).

RECOMMENDATION

In view of the foregoing, the undersigned recommends that the action be dismissed without prejudice. Plaintiff is advised of his right to file an objection to this Report and Recommendation with the Clerk of this Court by March 21st, 2013, in accordance with 28 U.S.C. § 636 and LCvR 72.1. The failure to timely object to this Report and Recommendation would waive appellate review of the recommended ruling. Moore v. United States of America, 950 F.2d 656 (10th Cir. 1991); cf. Marshall v. Chater, 75 F.3d 1421, 1426 (10th Cir. 1996)(“Issues raised for the first time in objections to the magistrate judge's recommendations are deemed waived.”).

This Report and Recommendation disposes of all issues referred to the undersigned Magistrate Judge in the captioned matter, and any pending motion not specifically addressed herein is denied.

ENTERED this 1st day of March, 2013.



GARY M. PURCELL
UNITED STATES MAGISTRATE JUDGE